



THE PRESIDENT CANNOT USE OR OFFER PARDONS TO INTERFERE IN AN INVESTIGATION IN A CORRUPT OR SELF-INTERESTED MANNER

Just as it would create a constitutional crisis for the President to fire Rosenstein or Mueller for corrupt or self-interested motives, the same would be true if he were to use or offer pardons for similar motivations.

The pardon power cannot be used to violate the rest of the Constitution.

While the pardon power is broad, it is not unlimited, and cannot negate other provisions of the Constitution. For example, the President could not declare pardons for only people of a certain race or religion who had been convicted of a federal offense. That use of the pardon power would violate the Equal Protection Clause or the First Amendment.

The Take Care and Oath Clauses of Article II require faithful execution of the law and prohibit using pardons to interfere in an investigation for corrupt purposes.

Another limitation on the pardon power comes from the Take Care and Oath clauses in Article II. These constitutional provisions require the President to take care that the law is faithfully executed and to uphold the Constitution to the best of his ability.

The Framers understood these clauses to impose a fiduciary duty on the President to act in the public interest and uphold the public trust. The President violates that duty if he acts corruptly and in a self-interested manner by issuing pardons to himself or his close associates — just as if he issues a pardon in exchange for a bribe.

These clauses also prohibit corrupt interference in a specific law enforcement matter. The President's constitutional duty is to oversee the faithful execution of the law — not to undermine it. The Constitution thus forbids the President from issuing pardons to interfere with or derail a specific investigation in a self-interested manner.

The President also cannot dangle or offer bribes to interfere with an investigation into himself or his campaign or associates.

The President also violates the Take Care and Oath clauses by offering pardons to discourage participation in an investigation or candor in a proceeding. Again, the President must oversee the faithful execution of the law, not undermine it.